

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

WILLIAM BRADFORD PLUDE,

Defendant-Appellant.

UNPUBLISHED
October 31, 1997

No. 192728
Wexford Circuit
LC No. 95-004752-FH

Before: Holbrook, Jr., P.J. and White and R.J. Danhof,* JJ.

PER CURIAM.

Defendant was convicted by a jury of receiving or concealing stolen property in excess of \$100, MCL 750.535; MSA 28.803. He was sentenced as a third-felony habitual offender, MCL 769.11; MSA 28.1083, to a term of four to ten years' imprisonment. He appeals as of right. We affirm.

Defendant was arrested and charged with receiving or concealing stolen property after stolen food stamps were found in his possession. On appeal, he argues that the evidence was insufficient to sustain his conviction for receiving or concealing stolen property. When determining whether sufficient evidence was presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt. *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992).

We disagree with defendant's claim that the prosecution failed to present sufficient evidence to prove that he knew the food stamps were stolen. An essential element of the crime of receiving or concealing stolen property is knowledge that the property in question was stolen. *People v Watts*, 133 Mich App 80, 82; 348 NW2d 39 (1984). Knowledge that property was stolen may be either actual or constructive, and may be inferred from all the facts and circumstances. *People v Hooks*, 139 Mich App 92, 96; 360 NW2d 91 (1984); *People v Laslo*, 78 Mich App 257, 263; 259 NW2d 448 (1977). In this case, the arresting officer testified that defendant gave a false name when he was initially confronted about the stolen food stamps and also gave several inconsistent stories regarding how he

* Former Court of Appeals judge, sitting on the Court of Appeals by assignment.

came into possession of the food stamps. The officer testified that defendant later apologized for lying about his name, admitted that what he had done was wrong, and said he “figured that [the food stamps] were probably stolen when he traded for them.” Viewed most favorably to the prosecution, this evidence was sufficient to enable a rational trier of fact to infer beyond a reasonable doubt that defendant knew that the food stamps were stolen. Although defendant testified at trial that he did not suspect that the food stamps were stolen until after he was arrested, the credibility of defendant’s testimony was a matter for the jury to resolve and this Court will not resolve it anew. *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988).

Defendant next argues that his four to ten year prison sentence violates the principle of proportionality, which requires a sentence to be proportionate to the seriousness of the crime and the defendant’s prior record. *People v Milbourn*, 435 Mich 630; 461 NW2d 1 (1990). The record indicates that defendant was convicted of his fourth felony offense at age nineteen. He also has a juvenile record involving several theft offenses. The presentence report reflects that defendant has shown no signs of rehabilitation. We conclude that defendant’s sentence does not violate the principle of proportionality.

Affirmed.

/s/ Donald E. Holbrook, Jr.

/s/ Helene N. White

/s/ Robert J. Danhof